

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FAREPORTAL INC. D/B/A CHEAPOAIR,

Plaintiff,

-against-

OPINION CORP. D/B/A PISSEDCONSUMER,

Defendant.  
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DECLARATION  
OF  
ILYA  
ZHEREBETSKIY

I, ILYA ZHEREBETSKIY, under penalty of perjury, hereby depose  
and say as follows:

1. I am an IT consultant (information technology). I graduated from SUNY Binghamton with a BS degree in computer science and a BS degree in business management with a concentration in finance. I received these degrees in 2006.

2. I am fully familiar with HTML code and have designed and developed webpages for many years.

3. I have reviewed the HTML code for the cheapo.com.pissedconsumer.com and cheapoair.pissedconsumer.com Web pages.

4. I downloaded all the pages from the cheapo.com.pissedconsumer.com and cheapoair.pissedconsumer.com websites using a recursive auto script.

5. I then filtered all the downloaded pages to metatags and produced two sets of lists. The first list, attached hereto as exhibit "A" is a listing of descriptive metatags and the second list, attached hereto as exhibit "B" is a listing of keyword metatags.

6. Search engines index the web by looking through webpages in a process known as spidering. The search engines look for all visible text and metatags (description and keywords). The spidering process is independent of the user's search. It builds a database of pages and their relationship to other pages using the search engine's algorithm. The database is based on relationship between visible text and on metatags which is in the HTML coding cannot be seen by the viewer. The metatags provide descriptions and keywords of the page that's being displayed. Once indexed, the most relevant pages based on the visible text and metatags are ranked.

7. Generally, a search engine will look at the pissedconsumer description meta tag and see the following first:

```
"<meta name="description"
content="Cheapoair, the company that brings
offers of a huge selection of cheap plane tickets,
airline tickets and cheapest airfares" />"
```

See, exhibit "A".

8. The search engine will then see that keyword meta tag, Cheapoair. The search engine will then go to keywords in the webpage and Cheapoair will again come up with other keywords as illustrated below:

```
"<meta name="keywords" ontent="Cheapoair,
Discount airfares, Cheap Plane Fares, Cheap Air
Tickets, Cheap Hotels and Car Rentals with
Cheap Flights Europe, Asia, USA" />"
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See, exhibit "B".

9. In other words, the search engine finds the Cheapoair description and keyword metatags. Dependent upon the algorithm of the search engine, based upon the visible text and the description and keyword metatags, the appropriate webpages will be displayed.

10. In relation to the cheapoair.com.pissedconsumer.com and cheapoair.pissedconsumer.com websites, pissedconsumer uses Cheapoair as both a description and keyword meta tag to describe their webpage. Therefore, when a search engine is searching for Cheapoair,

these two websites are found and due to the use of the Cheapoair trademark, come up prominently in the first few webpages listed by the search engine.

11. The pissedconsumer Web sites that relate to Cheapoair do not use meta tags to describe its own site as a review and comment website but instead, describe itself as if it were the actual Cheapoair webpage.

12. For example, the metatags for the pissedconsumer website that deals with Amazon.com reads as follows:

```
"<meta name="description" content="Amazon reviews and  
complaints by customers."
```

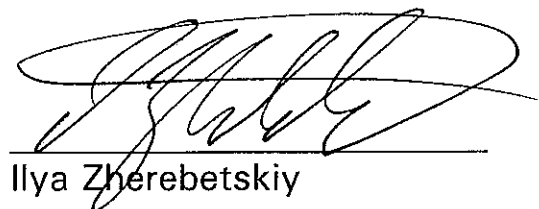
13. In the case of the metatags for the pissedconsumer website regarding Amazon.com, the metatag clearly states that it is about reviews and complaints by customers. This is conspicuously missing from the pissedconsumer websites regarding Cheapoair. The effect is that when someone searches for Cheapoair, the search engine comes up with the pissedconsumer websites as if it were Cheapoair. When the search engine indexes pissedconsumer's Amazon website, the search engine learns that the pissedconsumer website is really about consumer reviews and complaints, not about selling books, etc.

14. Attached hereto as exhibit "C" is a comparison of the metatags is on the Cheapoair side versus the metatags used on the pissedconsumer website for Cheapoair. In describing its webpage, Cheapoair uses certain keywords such as "cheap hotels, car rentals, cheap flights". Pissedconsumer, in addition to using the Cheapoair tradename, also uses the same words, "cheap hotels, car rentals" and "cheap flights".

15. Based on the pissedconsumer use of the Cheapoair metatags, the pissedconsumer websites regarding Cheapoair are found by a search engine because the search engine determines that the pissedconsumer websites on Cheapoair are closely related to the actual Cheapoair website. This is caused because of the use of the Cheapoair trademark and the associated keywords that are used which are also similar to those that are found in the Cheapoair website.

16. The foregoing is true when correct to the best of my personal knowledge, information and belief.

Dated: New York, New York  
June 28, 2008



Ilya Zharebetskiy

pissedconsumer-description-tags1

8-months-still-not-refund-20080620124729.html:<meta name="description" content="I was promised a credit back in October 07. After 2 months and not thinking I was going to get my money. Is cheapo going to pay for the credit card finance charges. Now I am getting harrasing calls from their collection wanting me to pay the money that was disputed." />

cheapo-air-agent-failed-to-make-promised-cancellation-2c-i-m-stuck-20080130112060.html:<meta name="description" content="Cheapo tries to make me feel ignorant for not getting that the ticket is non-refundable. Mine was not cancelled as the agent assured." />

cheap-o-air-awful-20080521121674.html:<meta name="description" content="I was sent paper tickets to an address that I was not at nor would be at before my flight." />

cheapoair-charges-an-enormous-amount-of-fee-20080612123935.html:<meta name="description" content="wth that said my mom was forced to buy the new planeticket from them. The total price for the ticket was about \$3600.00 for me and my daughter which is okay. but on top of that they have charged my mom an additional \$400.00 for an agent fee. this is ridiculous." />

cheapoair-is-very-sorry-3b-yes-they-are-20080620124720.html:<meta name="description" content="I have not had a single thing go right with customer service at www.cheapoair.com during any of the many hours I have spent trying to get them to do their job. The Airline (who has never not had a busy signal) changed the flight times and though there are seats on the new 10:30 flight they won't put the travelers on that one because their agent already picked the late afternoon one for them." />

cheapo-air-misleading-website-20080201112206.html:<meta name="description" content="I was very frustrated when I booked a flight through Cheapo air and was told I was flying from San Juan to San Francisco. Then I went on American Airlines website to get my seat numbers and come to find out I have a lay over of an hour and a half in Chicago." />

cheapo-air-nothing-short-of-fraud-20080419118449.html:<meta name="description" content="We needed to change one of the tickets & were told by a Cheapo Air Agent that we could do so for a fee. All we were required to do was to cancel the one ticket and buy another one. Months have gone by in which we have spent hours on the phone to get our money that was promised back." />

cheapoair-sold-non-existing-flights-20080502119618.html:<meta name="description" content="I think they were fraudulent in selling me a flight that didn't exist." />

cheapoair-takes-forever-to-complete-a-refund-20080523121912.html:<meta name="description" content="I have been waiting for about 5 months for my ticket to get refunded. Today is May 23. I called again today and they said it will take 3-4 billing cycles for the refund to be completed (4 months). They said it is not possible to process it any faster. However they have charged my credit card \$200 for processing fee." />

cheapoair-will-cost-you-20080424118904.html:<meta name="description" content="I have had a very bad experience with this reseller. which they were supposed to get from the cancelled record. I have tried to have the problem resolve . The conversation quickly evolved to something resembling the skit &quot;who is on first&quot;. Except for the laughs: I was trying to ask the guy when the ticket would be cancelled and he kept telling me to call the airlines to re-book." />

class-action-lawsuit-on-cheapoair-com-20080518121363.html:<meta name="description" content="There are too many unhappy customers out there. We all pay for true and honest service and we are entitled to refunds until either they shut down or serve us (the customers) with respect and dignity." />

[ index.html:<meta name="description" content="Cheapoair, the company that brings offers of a huge selection of cheap plane tickets, airline tickets and cheapest airfares" />

it-will-take-more-than-ten-words-20080604123123.html:<meta name="description" content="Now three days later and fifteen phone calls it is still not resolved. They say they will issues the correct tickets but want to charge more to do so. We will never use this airline again." />

trying-to-book-a-flight-with-cheapo-20080423118796.html:<meta name="description" content="I have tried 5 times now to book a flight that is available. Go through the entire booking process and then I find that the flight is not available. Cheapo's message to me is to say they are sorry and that it is very rare for this to happen that the seats would not be available and I should try a different flight time." />

pissedconsumer-keywords-tags-1

8-months-still-not-refund-20080620124729.html:<meta name="keywords" content="finance charges, supervisor, customer service, credit card, money, collection department" />  
 cheapo-air-agent-failed-to-make-promised-cancellation-2c-i-m-stuck-20080130112060.html:<meta name="keywords" content="cheapo, cheapoair, phone calls, e mail, subject line, cancellation, confirmation, credit card statement" />  
 cheap-o-air-awful-20080521121674.html:<meta name="keywords" content="paper ticket, e ticket, kiosk, customer service" />  
 cheapoair-charges-an-enormous-amount-of-fee-20080612123935.html:<meta name="keywords" content="planeticket, departure and arrival, with, arrival date, slate, nerve, mom, email, airline, sleep, agent fee, purchase fee" />  
 cheapoair-is-very-sorry-3b-yes-they-are-20080620124720.html:<meta name="keywords" content="native english speakers, travelers insurance, newport news va, travelers, busy signal, cheapoair, flight times, late evening, single thing, late afternoon, durham nc, medical condition, family vacation, raleigh durham, fort lauderdale, airline, flights, cr" />  
 cheapo-air-misleading-website-20080201112206.html:<meta name="keywords" content="american airlines, seat numbers, supervisor, san francisco, hour and a half, san juan, planes, mistake, san francisco, customer service" />  
 cheapo-air-nothing-short-of-fraud-20080419118449.html:<meta name="keywords" content="incompetent service, cheapo air, initial ticket, service representatives, several times, money" />  
 cheapoair-sold-non-existing-flights-20080502119618.html:<meta name="keywords" content="customer service number, cheapoair, 9 months, first class, airline, airlines, fly" />  
 cheapoair-takes-forever-to-complete-a-refund-20080523121912.html:<meta name="keywords" content="billing cycles, 5 months, 4 months, confirmation, credit card" />  
 cheapoair-will-cost-you-20080424118904.html:<meta name="keywords" content="customer service rep, discount providers, long periods, lowest fare, new ticket, own travel, playing with fire, bad experience, skit, avail, laughs, guarantees, airlines, supervisor, airline, long time, experiences, credit card" />  
 class-action-lawsuit-on-cheapoair-com-20080518121363.html:<meta name="keywords" content="honest service, unhappy customers, ftc, dignity, remedy, fraud" />  
 [ index.html:<meta name="keywords" content="Cheapoair, Discount airfares, Cheap Plane Fares, Cheap Air Tickets, Cheap Hotels and Car Rentals with Cheap Flights Europe, Asia, USA" />  
 it-will-take-more-than-ten-words-20080604123123.html:<meta name="keywords" content="minnie harris, customer service person, charleston west virginia, charleston south carolina, niece, airline" />  
 trying-to-book-a-flight-with-cheapo-20080423118796.html:<meta name="keywords" content="booking agency, flights" />

Cheapoair	Pissedconsumer
<p>CheapOair.com" /&gt;&lt;meta name="GENERATOR" content="" /&gt;&lt;meta name="AUTHOR" content="" /&gt;&lt;/head&gt;</p>	
<p>&lt;meta name="KEYWORDS" content="Discounted Airfares, cheap plane fares, Cheap Air Tickets, Cheap Hotels, Car Rentals, cheap flights, best air fares, cheap plane tickets " /&gt;</p>	<p>&lt;meta name="keywords" content="Cheapoair, Discount airfares, Cheap Plane Fares, Cheap Air Tickets, Cheap Hotels and Car Rentals with Cheap Flights Europe, Asia, USA" /&gt;</p>
<p>&lt;meta name="DESCRIPTION" content="Discount airfares, Cheap Plane Fares, Cheap Air Tickets, Cheap Hotels and Car Rentals with Cheap Flights Europe, Asia, USA" /&gt;</p>	<p>&lt;meta name="description" content="Cheapoair, the company that brings offers of a huge selection of cheap plane tickets, airline tickets and cheapest airfares" /&gt;</p>